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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------------|------------------|
| 09/752,026 | 12/29/2000 | Gary E. Sullivan | 257/127 | 8705 |
| 30408 | 7590 | 03/02/2005 | | |
| GATEWAY, INC. ATTN: SCOTT CHARLES RICHARDSON 610 GATEWAY DR., Y-04 N. SIOUX CITY, SD 57049 | | | EXAMINER ROBINSON, GRETA LEE | |
| | | | ART UNIT 2167 | PAPER NUMBER |

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/752,026

Applicant(s)

SULLIVAN ET AL.

Examiner

Greta L. Robinson

Art Unit

2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-21 are pending in the present application.
2. Claims 1, 11 and 14 have been amended; and new claim 21 has been added.

Drawings

3. The drawings were received on October 21, 2004. These drawings are acceptable.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Peng US Patent 6,738,766 B2.

Regarding claim 1, **Peng** teaches a system for storing and retrieving data [note: column 2 lines 32-48], comprising:

An identifier including three or more variables for identifying each data stored in said system, wherein one of said at least three or more variables is a location variable

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[see: figure 2B, 3A, 3B and 8; note column 6 lines 21-46; column 4 line 65 through column 5 line 7].

6. Regarding claims 2-6, wherein one of said three or more variables is a device identification variable ... timestamp ... wildcard ... wherein said registry is provided in a database structure [note: figure 8 step 802 user ID from mobile device; figure 3B parameters; column 5 lines 48-65; App registration Module 316 figure 3A, note Peng provides for various parameters see column 5 lines 1-3].

7. Regarding claims 7-10, wherein one of said three or more variables includes a device identification variable ... application identification variable and user identification variable... timestamp ... wildcard ... wherein said system includes a registry [note: figure 8 step 802 user ID from mobile device; figure 3B parameters; column 5 lines 48-65; App registration Module 316 figure 3A, note Peng provides for various parameters see column 5 lines 1-3].

8. The limitations of claims 11-13 have been addressed above in claims 1-10 except for the following: providing a floating value to said at least tree variables [note: provision of various parameters see column 5 lines 1-3].

9. The limitations of claims 14-20 have been addressed above in claims 1-10 except for the following: deleting one or more data items [note: figure 8 step 810].

Response to Arguments

10. Applicant's arguments filed October 21, 2004 have been fully considered but they are not persuasive.

Applicant argued in the response that Peng does not teach "wherein one of said at least three or more variables is a location variable" as recited in amended claims 1, 11 and 14. Applicant also argues that Peng does not teach a registry for storing and retrieving preference data.

In response to Applicant's argument, the examiner respectfully maintains the rejection. Peng teaches a location variable note column 4 line 65 through column 5 line 7 which states each application record includes various parameters, such as keywords and the name of the selected application. The name of the selected application is the location or URL also note figure 2B. Peng teaches a registry database see figure 5 step 506 and 512, also note figure 3A, column 5 lines 44-62 note registration module 316, and column 3 lines 32-36. Applicant's argument that the data is preference data is not a limitation in the claims. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., preference data that includes an element of location within each entry) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571) 272-4118. The examiner can normally be reached on Mon.-Fri. 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'G. Robinson', with a stylized, flowing script.

Greta Robinson
Primary Examiner
February 28, 2005

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